

Jacquelyn M. Hughes
HUGHES LAW, P.L.L.C.
3031 Grand Ave. #151
Billings, MT 59102
Telephone: (406) 855-4979
Facsimile: (888) 650-8031
jhughes@hugheslawmt.com

Attorney for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

TRENT KALE,)	
)	
Plaintiff,)	CASE NO. _____
)	
vs.)	
)	Judge: _____
MONTANA RAIL LINK, INC.,)	
MARK SMITH, AND STACY)	
POSEY, and JOHN DOES 1-10,)	PLAINTIFF'S COMPLAINT AND
)	DEMAND FOR JURY TRIAL
Defendants.)	

COMES NOW, Plaintiff Trent Kale, and alleges and avers as follows:

1. At all times relevant hereto, Plaintiff Trent Kale was a resident of Yellowstone County, Montana.
2. At all times relevant hereto, Defendant Montana Rail Link, Inc. ("MRL") was and is a Montana Corporation with its principal place of business in Missoula, Montana.

3. At all times relevant hereto, Defendant Mark Smith was an employee of Defendant MRL. His business office was located in Missoula, Montana.

4. At all times relevant hereto Defendant Stacy Posey was an employee of Defendant MRL. His business office was located in Missoula, Montana.

5 The true names and capacities of John Does 1-10, inclusive, are unknown to Plaintiff, who therefore brings this action against said Defendants by fictitious names. Plaintiff will seek leave to amend the *Complaint* to state the true names and capacities of Does 1-10, inclusive, when the same have been ascertained, together with further appropriate charging allegations. Plaintiff is informed and believes and thereon alleges that each of the fictitiously named Defendants is responsible in some manner for the occurrences alleged herein and that Plaintiff's damages as alleged herein were caused by Defendants' acts or omissions. Defendants John Does 1-10 inclusive, are natural persons, corporations, partnerships, joint ventures, or other legal entities who negligently and/or unlawfully caused or contributed to Plaintiff's damages as herein alleged.

FACTS COMMON TO ALL COUNTS

6. Defendant MRL is a Class II regional railroad that operates within the State of Montana.

7. Plaintiff was employed by Defendant MRL from December 2, 2015 through October 18, 2018.

8. On October 18, 2018, Defendant MRL unilaterally chose to terminate Plaintiff's employment with Defendant MRL.

9. Venue is proper in this Court as Defendants are located in Missoula County, Montana.

**COUNT I.
NEGLIGENT MISMANAGEMENT**

10. Plaintiff incorporates all foregoing paragraphs as though fully restated and set forth herein.

11. Plaintiff brings this claim pursuant to Mont. Code Ann. § 39-2-703, titled "Liability or railway corporation for negligence of fellow servants."

12. Plaintiff was, at all times relevant hereto, an employee of Defendant MRL.

13. Defendants Smith and Posey were, at all times relevant hereto, employees of Defendant MRL, a Class II railroad operating within the State of Montana.

14. Throughout Plaintiff's career at Defendant MRL, Defendant MRL engaged in various acts of neglect, mismanagement, and willful wrongs.

15. Throughout Plaintiff's career at Defendant MRL, Defendants Smith and Posey engaged in various acts of neglect, mismanagement, and willful wrongs.

16. The neglect, mismanagement, and willful wrongs committed by Defendants Smith and Posey were committed in the course and scope of their employment with Defendant MRL.

17. The neglect, mismanagement and willful wrongs committed by Defendants were committed while Plaintiff was an employee of Defendant MRL.

18. Defendant MRL is liable for all neglect, mismanagement, and willful wrongs committed by Defendants Smith and Posey which resulted in damages to Plaintiff.

19. Plaintiff suffered damages as a result of Defendants' neglect, mismanagement, and willful wrongs including, but not limited to past and future physical and emotional damages, past and future lost wages, past and future lost benefits, all of which are compensable pursuant to Mont. Code Ann. § 39-2-703.

20. Defendant MRL is liable to Plaintiff for all damages it caused Plaintiff.

21. Defendant MRL is liable to Plaintiff for all damages caused to Plaintiff by the neglect, mismanagement, or willful wrongs of Defendants Smith and Posey.

COUNT II WRONGFUL TERMINATION

22. Plaintiff incorporates all foregoing paragraphs as though fully set forth and restated herein.

23. On October 18, 2018, Defendant MRL terminated Plaintiff's employment with Defendant.

24. Defendant MRL did not have good cause to terminate Plaintiff's employment.

25. Defendant MRL violated its own policies in terminating Plaintiff's employment with MRL.

26. Defendant terminated Plaintiff's employment in violation of Mont. Code Ann. § 39-2-904.

27. In terminating Plaintiff's employment with Defendant MRL, Defendants acted with actual malice or actual fraud.

28. Plaintiff suffered damages as a result Defendant MRL's violation of Mont. Code Ann. § 39-2-904.

WHEREFORE Plaintiff prays for judgment against Defendants as follows:

29. For past and future loss of enjoyment of life, loss of established course of living, mental anguish, psychological injury, past and future medical costs; wage and benefits loss, loss of income earning capacity, costs associated with vocational retraining;

30. For any and all other damages permitted under Montana law;

31. For punitive damages;

32. For all other and further relief the Court deems just and proper.

DATED this 16th day of October, 2019.

HUGHES LAW, P.L.L.C.

By: /s/ Jacquelyn Hughes
Jacquelyn M. Hughes
Attorney for Plaintiffs

JURY DEMAND

Plaintiffs Demand Trial by Jury.

DATED this 16th day of October, 2019.

HUGHES LAW, P.L.L.C.

By: /s/ Jacquelyn Hughes
Jacquelyn M. Hughes
Attorney for Plaintiffs